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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Afghanistan, Albania, Andorra, Argentina, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Bosnia and Herzegovina, Canada, Chile, Costa Rica, Croatia, Denmark, Djibouti, Dominican Republic, Egypt, Finland, France, Germany, Greece, Guatemala, Guinea, Guinea-Bissau, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jordan, Kuwait, Latvia, Liechtenstein, Luxembourg, Malaysia, Malta, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Oman, Pakistan, Portugal, Qatar, Saudi Arabia, Slovenia, Spain, Sudan, Sweden, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yemen: draft resolution

# Rape and abuse of women in the areas of armed conflict in the former Yugoslavia

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Prevention and Punishment of the Crime of Genocide, 3/ the Convention against Torture and Other Cruel,

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1/ Resolution 217 A (III).

2/ Resolution 2200 A (XXI), annex.

3/ Resolution 260 A (III).

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Inhuman or Degrading Treatment or Punishment, 4/ the Convention on the Elimination of All Forms of Discrimination against Women, 5/ the Convention on the Rights of the Child 6/ and other instruments of human rights and international humanitarian law, including the Geneva Conventions of 12 August 1949 7/ and the Additional Protocols thereto, of 1977, 8/

Recalling its resolution 3074 (XXVIII) of 3 December 1973, entitled "Principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity,

Recalling also Commission on Human Rights resolution 1994/77 of 9 March 1993, 9/ entitled "Rape and abuse of women in the territory of the former Yugoslavia" and General Assembly resolution 48/143 of 20 December 1993, entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia",

Appalled at the continuing and substantiated reports of widespread rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, in particular its use against the Muslim women and children in Bosnia and Herzegovina and other non-Serbs by Serbian forces,

Reaffirming the relevant Security Council resolutions, in particular resolution 798 (1992) of 18 December 1992 in which, inter alia, the Council strongly condemned those acts of unspeakable brutality,

Welcoming the reports and recommendations of the Special Rapporteur on the situation of human rights in the former Yugoslavia,

Taking note with deep concern of the reports on the findings of the Special Rapporteur regarding rape and abuse of women in the territory of the former Yugoslavia, particularly in the Republic of Bosnia and Herzegovina,

Convinced that this heinous practice constitutes a deliberate weapon of war in fulfilling the policy of ethnic cleansing carried out by Serbian forces in the Republic of Bosnia and Herzegovina, and noting its resolution 47/121 of 18 December 1992, in which it stated, inter alia, that the abhorrent policy of ethnic cleansing was a form of genocide,

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4/ Resolution 39/36, annex.

5/ Resolution 34/180, annex.

6/ Resolution 44/25, annex.

7/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

8/ Ibid., vol. 1125, Nos. 17512 and 17513.

9/ See Official Records of the Economic and Social Council, 1994, Supplement No. 4 (E/1994/24), chap. II, sect. A.

Welcoming the fact that the proceedings of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 have now begun and, in this context, encouraging the provision of all resources necessary, including full funding as well as voluntary contributions from States and intergovernmental and non-governmental organizations so that the Tribunal can conduct, without any interference and further delay, its stipulated functions of trying those accused of and punishing those responsible for the perpetration of violations of international law,

Desirous of ensuring that persons accused of upholding and perpetrating rape and sexual violence as a weapon of war in the areas of armed conflict in the former Yugoslavia will be brought to justice by the International Tribunal where appropriate and without further delay,

Underlining, in this context, the need for the protection of the rape victims, and provision of effective guarantees of privacy and confidentiality of the rape victims, desirous of facilitating their participation in the proceedings of the Tribunal and ensuring that further traumatization will be prevented,

Stressing the need for further development and strengthening of a programme for protection of witnesses and survivors of sexual abuse and rape as a war crime who provide testimonies, in order to provide effective protection against retribution, and in this context expressing its support for the Victims and Witnesses Unit of the Tribunal,

Deeply alarmed at the situation facing victims of rape in the conflicts in different parts of the world, in particular in the Republic of Bosnia and Herzegovina, and the continuing use of rape as a weapon of war,

Noting with appreciation the work of the Office of the United Nations High Commissioner for Refugees, humanitarian organizations and non-governmental organizations aimed at supporting the victims of rape and abuse and alleviating their suffering,

Taking into account resolution 37/9 of 18 March 1994 of the Commission on the Status of Women, 10/

Taking note of the report of the Secretary-General 11/ pursuant to resolution 48/143,

1. Strongly condemns the continuing abhorrent practice of rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, which constitutes a war crime;

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10/ See Official Records of the Economic and Social Council, 1994, Supplement No. 7 (E/1994/27).

11/ A/48/858.

2. Expresses its outrage that the continuing and systematic practice of rape is being used as a weapon of war and an instrument of ethnic cleansing against the women and children in the Republic of Bosnia and Herzegovina;

3. Demands that those involved immediately cease these outrageous acts, which are in gross violation of international humanitarian law, including the Geneva Conventions of 12 August 1949 7/ and the Additional Protocols thereto, 8/ and take immediate action to ensure the enjoyment of human rights and fundamental freedoms in accordance with their obligations under those instruments and other applicable international human rights instruments;

4. Urges all States Members of the United Nations to take joint and separate action, in cooperation with the United Nations, to bring about an end to this despicable practice;

5. Condemns the continuous and persistent denial of access by the Bosnian Serb forces to the Special Rapporteur, the Special Representative of the Secretary-General, the Office of the United Nations High Commissioner for Refugees and the United Nations Protection Force, as well as other relevant humanitarian and human rights organizations, in the Serb-held areas, in particular Banja Luka, Bijeljina and other areas of concern, and demands that immediate and unimpeded access be granted and in this context welcomes Security Council resolution 941 (1994) of 23 September 1994;

6. Reaffirms that all persons who perpetrate or authorize crimes against humanity or other violations of international humanitarian law are individually responsible for those violations and that those in positions of authority who have failed to ensure that persons under their control comply with the relevant international instruments are accountable, together with the perpetrators;

7. Declares that rape is a heinous crime and encourages the International Tribunal to give due priority to the cases of the victims of rape in the areas of armed conflict in the former Yugoslavia, in particular in the Republic of Bosnia and Herzegovina;

8. Urges Member States to exert every effort to bring to justice, in accordance with internationally recognized principles of due process, all those individuals directly or indirectly involved in these outrageous international crimes;

9. Urges the Chief Prosecutor to consider the appointment to his office of experts in the prosecution of crimes of sexual violence, as recommended in its resolution 48/153 of 20 December 1993;

10. Calls upon States to put experts, including experts in the prosecution of crimes of sexual violence, at the disposal of the Chief Prosecutor and Tribunal;

11. Encourages the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia to continue to pay particular attention to the widespread occurrence of rape, particularly in Bosnia and Herzegovina, and acknowledges the work done by his team of female experts;

12. Urges all States and relevant organizations immediately to give serious consideration to the recommendations of the Special Rapporteur in his reports, in particular the recommendation for the provision for the continuation of necessary medical and psychological care of victims of rape within the framework of programmes to rehabilitate women and children traumatized by war;

13. Calls upon all States to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the Office of the Prosecutor in the investigation and prosecution of persons accused of using rape as a weapon of war and in the provision of protection, counselling and support to victims and witnesses;

14. Recognizes the extraordinary suffering of the victims of rape and sexual violence and the necessity for an appropriate response to provide assistance to those victims, and expresses its concern, in particular, for the welfare of those victims who are presently among the internally displaced or otherwise affected by the war, and who have experienced severe trauma and require psycho-social and other assistance;

15. Urges all States and all relevant intergovernmental and non-governmental organizations, including the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the World Health Organization, to continue to provide to the victims of such rape and abuse appropriate assistance for their physical and mental rehabilitation, as well as to extend their support to the community-based assistance programmes;

16. Requests the Secretary-General to provide such necessary means as are available to him in the area to enable any future missions to have free and secure access to places of detention;

17. Requests the Secretary-General to submit an updated and substantive report no later than 1 March 1995 on the issue of rape and abuse of women in the areas of armed conflict in the Republic of Bosnia and Herzegovina, in particular in the Serb-held areas, and on the measures taken towards implementation of this resolution;

18. Decides to continue the consideration of this question at its fiftieth session.

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